



October 21, 2022

Mr. William Cody
Secretary
Federal Maritime Commission
800 North Capitol St. NW
Washington, D.C. 20573

Re: Request for Comments: Definition of Unreasonable Refusal to Deal or Negotiate With Respect to Vessel Space Accommodations Provided by an Ocean Common Carrier; 87 Federal Register 57674 (September 21, 2022); Docket No. 22-24.

Filed via secretary@fmc.gov

Dear Mr. Cody:

The National Fisheries Institute (“NFI”) submits these comments to the Federal Maritime Commission (“FMC”) with respect to FMC’s proposed rule to address what constitutes an unreasonable refusal to deal or negotiate with respect to vessel space accommodations by a vessel operating common carrier (“VOCC”). The proposed rule responds to a requirement established as part of the Ocean Shipping Reform Act of 2022 (“the OSRA”).

NFI is the principal trade association for the nation’s commercial seafood value chain and as such represents harvesters, processors, exporters, importers, distributors, retailers, and seafood restaurants. Collectively, these companies supply American families and consumers around the world with tens of millions of premium, sustainable seafood meals every year.

Seafood is the most globally trade “center of plate” protein. The U.S. is both a major seafood importer and one of the world’s largest seafood *exporters*, in some years shipping well over half its landed catch to overseas customers. Over the past few years, American seafood exporters have grappled with widespread delays, bottlenecks, and increasing fees at U.S. ports of entry. These challenges have been exacerbated by VOCCs delivery of shipments to U.S. ports and then electing to leave without refilling empty containers with American goods for export. Such activity constricts entire supply chains and creates major trade barriers for U.S. companies. These conditions harm exporters and their supply chain partners and have put significant strain on the U.S. economy during a time of pandemic recovery and high food inflation.

NFI and its member companies are pleased with the OSRA's enactment and commend FMC for its work to execute on key provisions of the legislation designed to hold VOCCs accountable for their unfair practices that harm U.S. seafood exporters. In the context of severe supply chain disruptions, any action that FMC can implement to provide relief to seafood exporters is important. Efficient utilization of outbound containers and chassis is vitally important for U.S. exporters and their ability to reach foreign markets. Fully utilizing those containers and chassis, in turn, also generates knock-on efficiencies for U.S. food importers. Over 95% of the world's consumers live outside of the U.S.. Seafood exporters cannot reach these consumers without access to the infrastructure needed to meet customer demand for a range of premium, sustainable American seafood items. Consistent with this, NFI supports the proposed FMC rule to properly define the prohibition of VOCCs from unreasonably refusing to deal or negotiate with respect to vessel space accommodations as well as its proposed new burden-shifting mechanism.

As the Commission works to implement other OSRA directives established by Congress, NFI reiterates the specific problems that companies across the seafood supply chain continue to experience:

- Unpredictable dwell times;
- Exponential increases in demurrage and other port-related costs;
- Unfair and discriminatory commercial practices against shippers by oceangoing carriers and NVOCCs;
- Shortage of containers, chassis, and labor, especially at major ports;
- Dramatically higher tariff/contract rates for oceangoing freight; and
- Limited cold storage availability.

These problems have resulted in increased costs that seafood suppliers cannot absorb. Absent short-term actions to address the overall problem, consumers will continue to experience significantly higher prices for the seafood they serve to their families. NFI and its member companies urge FMC to keep these facts in mind as the agency moves forward with OSRA implementation.

NFI appreciates the opportunity to share these views on behalf of its hundreds of supply chain participants across the nation. NFI stands ready to serve as a resource for FMC as it moves forward on a number of implementing rules that will help address supply chain disruptions at US ports.

Sincerely,



Robert DeHaan
Vice President for Government Relations

